IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4096 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NEON FUELS P. LTD

Versus

DY COLLECTOR, STAMP DUTY VALUATION ORGANISATION

Appearance:

MR HM PRACHCHHAK for Petitioner

MR HM BHAGAT for Respondent No. 1

MR SANJAY A MEHTA for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 12/06/2000

ORAL JUDGEMENT

The petitioner purchased 14,872 Sq.Mtrs. (3 Acres, 22 Gunthas) of land at village Khodamba, Tal. Bhiloda, Dist. Sabarkantha at a price of Rs.61,111/-. The property was sold by the GSFC to the petitioner at a public auction in exercise of the powers under Section 29

of the State Financial Corporations Act, 1951.

The authorities under the Bombay Stamp Act, 1958 (hereinafter referred to as "the Act") initiated proceedings and the Deputy Collector (Stamp Duty Valuation), Sabarkantha at Himmatnagar passed the impugned order dated 19.2.2000 holding that the market value of the land was Rs.27,45,841/- and accordingly additional stamp duty of Rs.2,58,555/- plus penalty of Rs.250/- was ordered to be recovered from the petitioner.

2. At the hearing of the petition, the learned counsel for the petitioner has submitted that the petitioner could not point out all the relevant facts in his defence before the authorities under the Act as its main Director Jayantibhai G. Patel was detained under the Prevention of Black Marketing Act. It is submitted that if the petitioner is given an opportunity of hearing, all the relevant facts can be pointed out before the authorities.

3. Having heard the learned counsel for the parties, it appears to the Court that since the land in question was purchased by the petitioner from the GSFC at a public auction, the petitioner deserves to be given another opportunity to point out all the relevant facts before the Deputy Collector (Stamp Duty Valuation) including the value of the land in question when the GSFC sanctioned the loan to the concerned unit M/s Krishna Carbon & Chemical Industries.

4. It further appears to the Court that since non-appearance of the petitioner before respondent No. 1 could not be said to be attributable to any fault on the part of respondent No.1, even while directing respondent No. 1 Deputy Collector to give the petitioner another opportunity of hearing, the petitioner should be saddled with the costs of this petition which are quantified at Rs.5,000/- (Rupees five thousand only) for respondent No. 1 only.

It is clarified that no costs are awarded to respondent No. 2 for the simple reason that a valuable property of the borrower appears to have been sold off by respondent No. 2-Corporation at a throw away price. Even according to the learned counsel for the petitioner, the value of the land was substantially higher than the value at which the property was sold off at the public auction.

5. In view of the above discussion, the impugned

order dated 19.1.2000 at Annexure "E" to the petition and the consequential warrant at Annexure "F" to the petition are quashed and set aside with liberty to respondent No. 1 to proceed with the show cause notice after giving the petitioner another opportunity of being heard.

Rule is made absolute to the aforesaid extent.

The petitioner shall pay respondent No. 1 costs of this petition quantified at Rs.5000/- within one month from today.

June 12, 2000 (M.S. Shah, J.)
sundar/-